

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336

AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-897*

13 **KAREN JOAN PENKALA-SHORKEY**
2851 N. Michigan Avenue
14 Saginaw, MI 48604

A C C U S A T I O N

15 **Registered Nurse License No. 762261**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about October 29, 2009, the Board of Registered Nursing issued Registered
24 Nurse License Number 762261 to Karen Joan Penkala-Shorkey (Respondent). The Registered
25 Nurse License expired on September 30, 2011, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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COSTS

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(Out-of-State Discipline Against Respondent's Michigan Nursing License)

8. Respondent has subjected her license to disciplinary action under section 2761, subdivision (a)(4) of the Code in that her registered nurse license was disciplined by the Michigan Board of Nursing. The circumstances are as follows:

9. On or about October 7, 2010, before the State of Michigan Department of Community Health, Bureau of Health Professions, Board of Nursing Disciplinary Subcommittee (Michigan Board), *In the Matter of Karen J. Penkala-Shorkey*, file number 47-10-117047, an Administrative Complaint was filed against Respondent alleging that on December 12, 2009, Respondent was admitted to inpatient treatment for alcohol dependence and opiate dependence involving the use of Vicodin and Darvocet. Respondent underwent detoxification and was discharged on December 22, 2009.

10. On December 28, 2009, Respondent completed intake with the Health Profession Recovery Program (HPRP). The HPRP reviewed the treatment records for Respondent's inpatient treatment. Based on Respondent's diagnosis of alcohol dependence, opiate dependence, and cocaine abuse, the HPRP deemed Respondent not safe to practice.

11. On March 22, 2010, Respondent entered into a three-year non-disciplinary monitoring agreement with the HPRP. The terms of the agreement included abstention from mood-altering substances, submission to random urine drug screens, communication with a worksite monitor via a web camera, submission of reports and evidence of program compliance. On July 6, 2010, the HPRP closed Respondent's file based on her non-compliance with the monitoring agreement.

12. As result of Respondent's termination from the HPRP, the Michigan Board alleged that Respondent's conduct evidenced a condition which impairs or may impair the ability to safely and skillfully practice the health profession, in violation of section 16221(a) of the Public Health Code (Count I); that Respondent's conduct evidences substance abuse, in violation of section 16221(b)(ii) of the Public Health Code (Count II); and that Respondent suffers from a mental or physical inability reasonably related to and adversely affecting Respondent's ability to

1 practice in a safe and competent manner, in violation of section 16221(b)(iii) of the Public Health
2 Code.

3 13. On or about March 2, 2011, the Michigan Board adopted a Consent Order, effective
4 April 1, 2011, wherein Respondent admitted by way of a stipulation, that the allegations
5 contained in the administrative complaint were true and constituted violations of the Public
6 Health Code, and that she accepted the terms of the Consent Order. Respondent's registered
7 nursing license was suspended pending satisfactory evidence that she completed a substance
8 abuse/chemical dependency evaluation, entered into a monitoring agreement, and that
9 Respondent has been endorsed as safe to practice. Upon reinstatement of Respondent's license,
10 she would be placed on probation for a period of two years on certain terms and conditions.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Out-of-State Discipline Against Respondent's Wisconsin Nursing License)**

13 14. Respondent has subjected her license to disciplinary action under section 2761,
14 subdivision (a)(4) of the Code in that her registered nurse license was disciplined by the
15 Wisconsin Board of Nursing. The circumstances are as follows:

16 15. Respondent was licensed as a registered nurse by the State of Wisconsin Board of
17 Nursing (Wisconsin Board) on February 10, 2009.

18 16. On or about August 24, 2011, the Wisconsin Board filed a Complaint and Notice of
19 Hearing, in case number 11NUR195, alleging that Respondent's conduct, as described in
20 paragraphs 9-13, above, constituted an abuse of alcohol or other drugs pursuant to Wisconsin
21 Administrative Code section N 7.03(2), and subjected Respondent to discipline pursuant to
22 Wisconsin Statutes section 441.07(1)(c).

23 17. Respondent voluntarily agreed to surrender her Wisconsin nursing license. In its
24 Final Decision and Order No. 0001144, the Wisconsin Board accepted the surrender of
25 Respondent's license, effective October 6, 2011.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Out-of-State Discipline Against Respondent's Iowa Nursing License)**

3 18. Respondent has subjected her license to disciplinary action under section 2761,
4 subdivision (a)(4) of the Code in that her registered nurse license was disciplined by the Iowa
5 Board of Nursing. The circumstances are as follows:

6 19. Respondent was licensed as a registered nurse by the Iowa Board of Nursing (Iowa
7 Board) on April 6, 2009.

8 20. On or about September 14, 2011, the Iowa Board filed a Notice of Hearing and
9 Statement of Charges alleging that Respondent violated Iowa Code section 152.10(2)(d)(1) in that
10 her license to practice nursing was disciplined by another state, as described in paragraphs 8-13,
11 above.

12 21. A hearing on the Statement of Charges was held on December 2, 2011. Respondent
13 did not appear at the hearing. An Iowa Board investigator testified and produced exhibits
14 relevant to the discipline imposed by the Michigan Board of Nursing. The Iowa Board concluded
15 that Respondent's failure to appear at the hearing subjected her to default. Based on a
16 preponderance of the evidence, the Iowa Board found that Respondent violated Iowa Code
17 section 152.10(2)(d)(2011) when the State of Michigan indefinitely suspended Respondent's
18 nursing license. The Iowa Board ordered Respondent's license suspended indefinitely for a
19 minimum of one year.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Out-of-State Discipline Against Respondent's Idaho Nursing License)**

22 22. Respondent has subjected her license to disciplinary action under section 2761,
23 subdivision (a)(4) of the Code in that her registered nurse license was disciplined by the Idaho
24 State Board of Nursing. The circumstances are as follows:

25 23. On or about February 24, 2012, the Idaho State Board of Nursing (Idaho Board) filed
26 a formal Complaint against Respondent alleging that the discipline imposed by the Michigan
27 Nursing Board, as described in paragraphs 8-13, above, violated the laws and rules governing
28 Idaho nursing practice, specifically Idaho Code section 54-1413(1)(g) and Board Rule 100.08 (a

nurse shall not violate the Board's laws, rules or standards of conduct and practice); and Idaho Code section 54-1413(1)(i) and Board Rule 100.10 (a nurse shall have his/her license to practice restricted, limited, suspended or revoked, or otherwise disciplined, in any jurisdiction.)

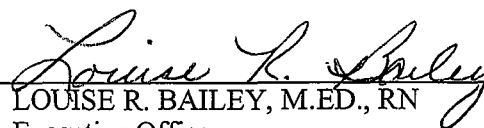
24. Copies of the complaint and associated documents were served to Respondent by First Class and Certified Mail at Respondent's address of record with the Idaho Board on February 27, 2012. Respondent failed to file a formal answer to the Complaint within 21 days of service. On or about April 17, 2012, the Idaho Board served Respondent with a copy of the Notice of Proposed Default and Default Order. Respondent failed to contest the entry of the proposed Default Order. On April 25, 2012, the Default Order was entered, and the allegations contained in the Complaint were admitted as true without further proceedings. Respondent's Idaho nursing license was revoked effective May 4, 2012.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 762261, issued to Karen Joan Penkala-Shorkey;
2. Ordering Karen Joan Penkala-Shorkey to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: APRIL 9, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2013704934